

comparing a first value with a second value, said first value representing an amount of data that can be carried by said first packet yet still conform to said first input rate, said second value representing the amount of data said packet carries.

BA 39. (New) The method of claim 38 further comprising tagging said first packet as conforming if said first value is greater than said second value.

AT 40. (New) The method of claim 38 further comprising tagging said first packet as non-conforming if said first value is less than said second value.

41. (New) The method of claim 32 wherein said first input flow further comprises a priority parameter that describes the priority of said first packet within said network.

42. (New) The method of claim 41 wherein said priority parameter further comprises a Type of Service (TOS) value to be placed into a header of said first packet prior to entry of said first packet into said network.

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### COMMENTS

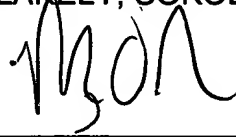
Applicants respectfully request that new claims 13-42 be entered into the present case and considered for allowance.

It is important to point out that new claims 13-42 should not be viewed as narrowing amendments to any existing claims for reasons related to patentability. Applicants believe all claims are patentable. Applicants have introduced new claims 13-42 because they have commercial value rather than as a sacrifice of claimable subject matter. As such, the present amendment is neither made for purposes of patentability or to be construed as a narrowing amendment to any of existing claims 1-12. As such, the full benefit of the doctrine of equivalents should be applied to new claims 13 through 42.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN



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